



State of West Virginia
Office of the Attorney General

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Attorney General

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**WRITTEN DETERMINATION REGARDING THE
APPOINTMENT OF OUTSIDE COUNSEL ON BEHALF OF THE
WEST VIRGINIA OFFICES OF THE INSURANCE COMMISSIONER**

The West Virginia Offices of the Insurance Commissioner (hereinafter the "OIC") is in need of legal representation in the case of *Corey D. Howard v. West Virginia Office of the Insurance Commissioner*, Civil Action No. 13-cv-251, which is currently pending in the United States District Court for the Northern District of West Virginia.

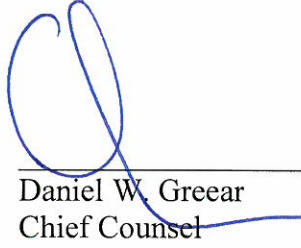
More specifically, the OIC is in need of legal representation to defend against a complaint for declaratory judgment seeking review of an administrative decision issued by the Workers' Compensation Office of Judges.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to authorize the appointment of Bailey & Wyant for the legal matter in question, based on the following factors:

- The Office of the Attorney General has determined that its representation of the OIC in the above-cited matter could raise potential conflict of interest issues, as the Attorney General's Office frequently represents the Old Workers' Compensation Fund in administrative claims that come before the Workers' Compensation Office of Judges.
- The OIC must file an answer in the above-captioned case by December 16, 2013, leaving insufficient time to complete the customary competitive bidding process.
- Bailey & Wyant has previously served in the capacity of legal counsel for the OIC in a similar legal matter, and is thus uniquely situated to perform the legal services needed.
- Because of its pre-existing familiarity with the legal issues in question, Bailey & Wyant is positioned to address many of OIC's legal needs without expending the significant time and resources that would otherwise be needed for outside counsel to familiarize itself with many of the issues in question.
- Bailey & Wyant is readily accessible to provide the legal services in question.

- Bailey & Wyant has agreed to provide the needed legal services as discounted rates that would represent substantial savings to the State: \$175 an hour for members; \$155 an hour for associates; and, \$100 an hour for paralegals.

Because this matter involves an emergency situation that requires time sensitive legal services and presents potential conflict of interest issues, the Office of the Attorney General has determined that Requests for Proposal are not necessary pursuant to Sections (D)(2) and (O) of Policy #WVAGO-004.



Daniel W. Greear
Chief Counsel

Date Signed: December 5, 2013